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## NOTES OF CASES.

**Five Hundred Dollars for Imprisonment in Ball Grounds.**—As a great game of baseball was to take place in the afternoon, plaintiff went to the ball grounds early in the morning to secure reserved seats, but was unsuccessful in his quest, as all the seats had been sold. When he tried to leave the inclosure he found the various gates used for entrance or exit thronged with a dense mass of people coming in. Repeated attempts to pass out through this throng were frustrated by defendant's special policemen and as a result of this interference he was detained in the inclosure for an hour or more, much to his annoyance and personal inconvenience. Finally plaintiff and others in the same plight were taken through the clubhouse within the inclosure, and allowed to go out through the entrance to the clubhouse to the street. In the ensuing action for false imprisonment the Supreme Court, Appellate Division of New York in *Talcott v. National Exhibition Co.*, 128 New York Supplement, 1059, upholds the lower court judgment of \$500 damages on the ground that defendant owed plaintiff the active duty to point out other means of egress as there were others unknown to plaintiff, and that it could not stand idly by and simply detain and imprison him against his will.

**Election Cigars.**—Robert Umbel, Democratic nominee for the office of judge, filed his account of expenditures made to secure the nomination, in accordance with the Corrupt Practices Act. In this account he included the item, "One box of cigars \$3.00." The Supreme Court of Pennsylvania in *Re Umbel*, 80 Atlantic Reporter, 541, holds that Umbel would not be estopped, by the fact that he included the cigar item in his account—it not being an election expense within the meaning of the act—from showing that the use of the cigars was but the common courtesy which men extend to friends, without any thought on his part or on their part that the latter were to be thereby influenced in their votes.

**Blasting and Liability for Trespass Instead of Negligence.**—In the Rhode Island case of *Wells v. Knight*, 80 Atlantic Reporter, 16, plaintiff's decedent, on approaching in the public street the vicinity of blasting operations, was repeatedly warned of the danger, and that a blast was about to be fired. He was told that there would be three explosions, and to look out. After watching the first discharge and noting its effect, and, probably thinking that there was little danger of being struck by flying debris along the street, he started to drive on. After going some three hundred feet, in the face of warning, another discharge was made, from which a large stone was hurled over the street, striking him, and from the effects

of which he died within a short time. Action was brought for the injury, but instead of its being predicated on defendant's negligence, which is the usual method of recovery, trespass to the person was made the basis of the suit. The appellate court approved of the procedure saying that, as negligence need not be shown to recover for damage done by matter thrown by blasting upon adjoining land, so is it immaterial where one is injured in a highway where he has a right to be, citing with approval the New York case of *Sullivan v. Dunham*, 55 Northeastern Reporter, 923, which states that the doctrine is founded upon the principle "that the safety of property generally is superior in right to a particular use of a single piece of property by its owner," and that the maxim, "*sic utere tuo ut alienum non lædas*," should be so applied as to protect both person and property from direct physical violence, which, although accidental, has the same effect as if it were intentional.

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**Subsequent Stockholder's Rights to Sue.**—Pollitz, plaintiff in the case of *Pollitz v. Gould*, 94 Northeastern Reporter, 1088, brought an action as a stockholder in behalf of the corporation to set aside as fraudulent a transfer and exchange of several millions of dollars par value of its stock, although the transaction in question was consummated at the expense of the corporation before he acquired his stock. It was argued that one who buys stock subsequent to a transaction, buys subject to it and cannot question it; that the right to question a fraud is not a purchasable commodity, and is not capable of assignment and transfer. The Court of Appeals of New York holds the first argument unsound, unless the prior holder gives binding consent to the transaction; and as to the second, that as it is conceded that one holding stock when a fraud is consummated has the right to have the cause of action prosecuted by the corporation or do it himself for the corporation, it would be an anomalous exception if when he transferred his certificate he would retain this right while he passed all his other rights by the transfer.

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**Pistols Are Pistols.**—One Mitchell was convicted for carrying a concealed weapon and appeals to the Supreme Court of Mississippi in *Mitchell v. State*, 55 Southern Reporter, 354, contending that what he carried was not a pistol because it had no hammer or mainspring. The court holds: "An object once a pistol does not cease to be one by becoming temporarily inefficient. Its order and condition may vary from time to time, without changing its essential nature or character. Its machinery may be more or less perfect. At one time it may be loaded; at another, empty; it may be capped or uncapped; it may be easy to discharge or difficult to discharge, or not capable, for the time, of being discharged at all; still, while it retains the general characteristics and appearance of a pistol, it is a